

**COMPENSATION (LONDON CAPITAL & FINANCE COMPENSATION SCHEME)
INSTRUMENT 2021**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137T (General supplementary powers);
 - (2) section 139A (Power of the FCA to give guidance); and
 - (3) section 224F(5) (Rules about relevant schemes).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 3 November 2021.

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Compensation sourcebook (COMP) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Compensation (London Capital & Finance Compensation Scheme) Instrument 2021.

By order of the Board
2 November 2021

Annex A**Amendments to the Glossary of definitions**

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>bondholder</i>	a person who holds a bond issued by London & Capital Finance plc which has was still in issue and had not been redeemed as at 30 January 2019.
<i>LCF Compensation Scheme</i>	the compensation scheme established for the purpose of compensating <i>bondholders</i> who suffered losses after investing in London Capital & Finance plc and which is administered by the <i>FSCS</i> under Part 15A of the <i>Act</i> .

Annex B

Amendments to the Compensation sourcebook (COMP)

In this Annex, underlining indicates new text and striking through indicates deleted text, unless otherwise stated.

INTRO 1 Foreword

(This Foreword to the Compensation sourcebook does not form part of COMP.)

...

Chapter Funding
13

...

INTRO Appendix 1: FCA rules in connection with the LCF Compensation Scheme

...

Insert the following new chapter, COMP Appendix 1, after COMP 13 (Funding). The text is not underlined.

Appendix 1 LCF Compensation Scheme

App 1.1 Automatic Subrogation

App 1.1.1R The following rules in *COMP 7.3* and associated definitions apply in connection with the exercise by the *FSCS* of functions in respect of the *LCF Compensation Scheme* with the modifications shown below (new wording is underlined and deleted wording is struck through):

- | | |
|------------------------|--|
| (1) COMP 7.3.4R | (1) Any power conferred on the <i>FSCS</i> to make determinations under this section <u>modified COMP 7.3.8R</u> is exercisable in writing. |
| (2) | (2) An instrument by which the <i>FSCS</i> makes the determination must specify the provision under which it is made, the date and time from which it takes effect and the relevant person (or, where applicable, a successor) and protected claims, parts of protected claims and/or classes of protected claims <u>claims under the LCF Compensation Scheme</u> in respect of which it applies. |

- (3) The *FSCS* must take appropriate steps to publish the determination as soon as possible after it is made. ~~Such publication must be accompanied by a statement explaining the effect of *COMP 7.4.2R*.~~
- (4) Failure to comply with any requirement in this *rule* does not affect the validity of the determination.
- (5) A determination by the *FSCS* under ~~this section~~ modified *COMP 7.3.8R* may be amended, remade or revoked at any time and subject to the same conditions.

**(2) COMP
7.3.5R**

- (1) The production of a copy of a determination purporting to be made by the *FSCS* under ~~this section~~ modified *COMP 7.3.8R*:
 - (a) on which is endorsed a certificate, signed by a member of the *FSCS*'s staff authorised by it for that purpose; and
 - (b) which contains the required statements;

is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are:
 - (a) that the determination was made by the *FSCS*; and
 - (b) that the copy is a true copy of the determination.
- (3) A certificate purporting to be signed as mentioned in (1) is to be taken to have been properly signed unless the contrary is shown.
- (4) A *person* who wishes in any legal proceedings to rely on a determination may require the *FSCS* to endorse a copy of determination with a certificate of the kind mentioned in (1).

**(3) COMP
7.3.8R**

The *FSCS* may determine that:

- (1) The payment of compensation by the *FSCS* under the *LCF Compensation Scheme*;
- (2) [deleted]

shall have the following effects:

- (3) the *FSCS* shall immediately and automatically be subrogated, subject to such conditions as the *FSCS* determines are appropriate, to all or any part (as determined by the *FSCS*) of the rights and claims in the *United Kingdom* and elsewhere of the ~~claimant~~ bondholder against ~~the relevant person (or, where applicable, a successor)~~ London Capital & Finance plc and/or any third party (except the FCA) (whether such rights are legal, equitable or of any other nature whatsoever and in whatever capacity ~~the relevant person (or, where applicable, a successor)~~ London Capital & Finance plc or relevant third party is acting) in respect of or arising out of the ~~claim~~ claim in respect of which the payment of or on account of compensation was made;
- (4) the *FSCS* may claim and take legal action or any other proceedings or steps in the *United Kingdom* or elsewhere to enforce such rights in its own name or in the name of, and on behalf of, the ~~claimant~~ bondholder, or in both names against ~~the relevant person (or, where applicable, a successor)~~ London Capital & Finance plc and/or any relevant third party;
- (5) the subrogated rights and claims conferred on the *FSCS* shall be rights of recovery and claims against ~~the relevant person (or, where applicable, a successor)~~ London Capital & Finance plc and/or any relevant third party which are equivalent (including as to amount and priority and whether and whether or not ~~the relevant person (or, where applicable, a successor)~~ London Capital & Finance plc and/or any relevant third party is insolvent) to and do not exceed the rights and claims that the ~~claimant~~ bondholder would have had; ~~and/or.~~

App 1.2 Payments to Her Majesty's Treasury

App 1.2.1R Where, after the *FSCS* has paid compensation to a *bondholder* under the *LCF Compensation Scheme*, the *FSCS* subsequently determines that the conditions in *COMP* 3.2.1R are satisfied in relation to a *protected claim* against *London Capital & Finance plc* and/or a third party, the following rule in *COMP* 11.2 applies with the modifications shown below (new wording is underlined and deleted wording is struck through):

COMP 11.2.1AR If the *FSCS* determines that compensation is payable ~~(or any recovery or other amount is payable by the FSCS to the claimant)~~ to a bondholder under the compensation scheme, it must pay it ~~to the claimant, or if the FSCS so decides, as~~

directed by the claimant, unless *COMP 11.2.2R* or *COMP 11.2.2AR* apply.:

- (1) such compensation to Her Majesty's Treasury up to the amount paid to the *bondholder* under the *LCF Compensation Scheme*; and
- (2) any excess after (1), to the *bondholder*, up to the limits on maximum compensation sums payable by the *FSCS* under the *compensation scheme* as set out in *COMP 10.2.3R*.

Note: Under Part 15A of the *Act*, Her Majesty's Treasury may, by notice, require the *FSCS* to exercise specified functions in respect of specified claims for compensation under a scheme or arrangement established for the payment of compensation to customers of persons who provide financial services or carry on a business connected with the provision of such services. The *FCA* may by rules make provision in connection with the exercise by the *FSCS* of functions in respect of such a scheme and apply any provision of the *compensation scheme* to it with or without modification. This Appendix sets out the *FCA*'s rules, as modified, that apply where the *FSCS* exercises its functions in respect of the *LCF Compensation Scheme*.

The *LCF Compensation Scheme* is administered in accordance with the *LCF Compensation Scheme Rules*. These rules, and more information, are available at <https://www.gov.uk/lcfcompensationscheme>.